

March 6, 1995

MEMO TO: Rich Raico, Supervisor MIW Section

FROM: Ann Weber, Administrative Assistant

SUBJECT: Price Posting Survey

Of fifty states surveyed in regard to their price posting procedures we have received responses from 37.

Eleven states have no pricing regulations for beer and wine sales. Of these eleven, Nevada does have a pricing system for distilled spirits from supplier to wholesaler, and Illinois requires retailers to maintain a price posting system in their establishments for all drinks sold.

Seventeen states responded that they had some type of beer and/or wine price posting regulations. Of these seventeen, three states (New Jersey, New York, and Virginia) required pricing be filed, but the pricing is not reviewed.

The seventeen responding states that do require postings have a wide variety of regulations. Seven states only require posting from wholesale to retail. Of these, Georgia, New Hampshire, Vermont and Florida require posting only on beer, Missouri requires posting from wholesale to retail on wine and spirits, and New Jersey and Idaho require posting on both wine and beer.

Ten states require posting both from supplier to wholesaler and from wholesaler to retailer. Five states ask for both beer and wine, four ask only for wine pricing, and one West Virginia requires only beer price postings.

Massachusetts, which currently requires posting on beer and wine, as Washington does, is now defending against a federal lawsuit challenging the regulation and requests a copy of our survey results.

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PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360F
EXHIBIT NO.	12121

TX121_001

This brings us to the nine states which at one time had a beer and wine pricing system but now do not.

California, Oregon, Nebraska, Indiana and Tennessee all had their pricing system challenged in court cases and subsequently did away with pricing requirements. California commented that:

"the number of distilled spirits wholesalers has declined dramatically over the past 10-15 years. We now have two major spirits houses . . . We continue to see an increase in numbers of wineries in this state. The discontinuance of wine fair trade laws does not seem to have any negative impact on the wine industry in California."

Oregon's statement regarding the result of doing away with price postings is, "no noticeable affect on industry. Allowed our agency to streamline operations, reduce staff and office expense." Nebraska states, "Small, independent liquor business people were adversely effected by volume discounts." And Indiana's only comment is "competitive pricing among retailer and dealer." Tennessee discontinued their wine pricing system as a result of a suit filed by Brown Forman. They have continued requiring and reviewing beer pricing.

Hawaii, Kansas and Arkansas changed their pricing requirements as a result of legislation. Hawaii says there was "no apparent negative effect on business." Kansas states "Less paperwork for industry and our agency. One less full-time employee. We now have brand registration instead of price posting. . ." Arkansas' statement is "no comment."

Only one state, Alabama, discontinued pricing requirements as a result of administrative board regulation. The results have been wholesalers giving price differentials and discounts.

All responses to our survey are attached, including the regulations sent in by each state which has a price posting system.

ADDENDUM

Twelve states did not respond in writing to our survey. I was able to contact nine of those states by telephone to receive the additional information:

Kentucky, Alaska, Iowa and New Mexico have no pricing requirements.

South Dakota does require prices be posted for both beer and wine. The prices are not reviewed, they have been determined to be self-policing and are considered useful in "leveling the playing field between the large and small companies."

Rhode Island requires wine prices be filed from supplier to wholesaler. They are reviewed only on a complaint basis.

Michigan requires prices be filed from wholesaler to retailer for both beer and wine. Prices are reviewed upon complaint. They commented that they were surprised their system had not yet be contested as they mandate a 180 day post-off period on beer products and only a 14 day post-off period on wine."

Delaware requires that suppliers and wholesalers both file their prices for beer & wine.

Ohio requires all suppliers post their pricing to wholesalers for wine. Their prices are posted quarterly and are a minimum price which they can sell over, but can't sell below. Their system was challenged in court fifteen years ago but the state won the case as the postings were determined to protect the wholesalers. I have requested any information they have on the case, but at this time have no further information.

I was unable to contact Montana, Arizona and Louisiana either by mail or by telephone.

Price Posting Survey

State	Require Price Postings	Beer	Wine	Spirits	Supplier to Wholesaler	Wholesale to Retailer	Prices Actively Reviewed
Alabama							
Alaska							
Arizona**							
Arkansas							
California							
Colorado							
Connecticut	X	X	X		X	X	X
Delaware	X	X	X		X	X	
Florida	X	X				X	X
Georgia	X	X				X	X
Hawaii							
Idaho	X	X	X			X	X
Illinois							
Indiana							
Iowa							
Kansas							
Kentucky							
Louisiana**							
Maine	X	X	X		X	X	X
Maryland	X		X		X		X
Massachusetts	X	X	X		X	X	X
Michigan	X	X	X			X	
Minnesota	X		X		X	X	X
Mississippi							
Missouri	X		X	X		X	X
Montana**							
Nebraska							
Nevada	X			X	X		
New Hampshire	X	X				X	X
New Jersey	X	X	X			X	
New Mexico							
New York	X		X	X	X		
North Carolina							
North Dakota							
Ohio	X		X			X	
Oklahoma	X	X	X		X	X	X
Oregon							
Pennsylvania	X		X		X	X	X
Rhode Island	X		X		X		
South Carolina							
South Dakota	X	X	X				
Tennessee							
Texas							
Utah							
Vermont	X	X				X	X
Virginia	X	X	X		X	X	
Washington	X	X	X		X	X	X
West Virginia	X	X			X	X	X
Wisconsin							
Wyoming							
Totals	24	16	18	3	14	19	15

X= Yes Blank=No
 * Litigation Pending
 ** Did not Respond

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